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MAY 17 2016

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JSC

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 IN RE: REQUEST FOR INTERNATIONAL
JUDICIAL ASSISTANCE FROM THE
12 TURKISH MINISTRY OF JUSTICE ON
BEHALF OF THE 2ND CIVIL COURT OF
13 PEACE OF EDIRNE IN THE MATTER OF
SAMİ AYTAŞ V. TÜRKÇE AKŞAL and
14 AKŞAL MİM. MUH. TUR. SAN. TİC. A.S.

CV 16 80 108 MISC
1) MISC. NO.
2)
3) MEMORANDUM IN SUPPORT OF
4) APPLICATION FOR ORDER PURSUANT TO
5) TITLE 28 U.S.C. § 1782
6)
7)
8)
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17 The United States District Courts are empowered by 28 U.S.C. § 1782 to subpoena witnesses and
18 compel the production of documents on behalf of foreign and international tribunals. In this case, a
19 Turkish Court requests the U.S. Attorney's Office to obtain information and documents from Facebook,
20 Inc. ("Facebook") in Menlo Park, California, which is located within the jurisdiction of this Court. The
21 Turkish Court seeks non-content information related to the Facebook account of Sami Aytav, whose e-
22 mail address to login to Facebook is samiaytav@gmail.com, from the time period of March 23, 2015 to
23 March 24, 2015. The Turkish Court has also requested content information, but the United States is not
24 seeking the content information from Facebook at this time. *See* Declaration of Wendy M. Garbers,
25 Exhibit A.

26 The authority of this Court to order the production of evidence for use in a proceeding in a
27 foreign country is set forth in 28 U.S.C. § 1782, which provides that

1 The district court of the district in which a person resides or is found may order
2 him to give his testimony or statement or to produce a document or other thing for
3 use in a proceeding in a foreign or international tribunal. The order may be made
4 pursuant to a letter rogatory issued, or request made, by a foreign or international
5 tribunal or upon the application of any interested person and may direct that the
6 testimony or statement be given, or the document or other thing be produced,
7 before a person appointed by the court. By virtue of his appointment, the person
8 appointed has the power to administer any necessary oath and take the testimony
9 or statement.

10 28 U.S.C. § 1782(a). The legislative history shows that Congress intended for the United States to set an
11 example for other countries in rendering international judicial assistance. The Senate report states:

12 Enactment of the bill into law will constitute a major step in bringing the United
13 States to the forefront of nations adjusting their procedures to those of sister
14 nations and thereby providing equitable and efficacious procedures for the benefit
15 of tribunals and litigants involved in litigation with international aspects.

16 It is hoped that the initiative taken by the United States in improving its
17 procedures will invite foreign countries similarly to adjust their procedures.

18 S. Rep. No. 1580, 88th Cong., 2d Sess., reprinted in 1964 U.S. Code Cong. & Admin. News 3782, 3783.

19 The proper criteria for determining whether the court should exercise its discretion in favor of
20 assisting a foreign tribunal are outlined in *In Re Request for Judicial Assistance from the Seoul District*
21 *Criminal Court*, 555 F.2d 720 (9th Cir. 1977):

22 Under the statute the only restrictions explicitly stated are that the request be
23 made by a foreign or international tribunal, and that the testimony or material
24 requested be for use in a proceeding in such a tribunal. This court also has held
25 that the investigation in connection with which the request is made must relate to
26 a judicial or quasi judicial controversy.

27 *Seoul District Criminal Court*, 555 F.2d at 723 (citation omitted).

28 The letter of request in this case shows that the information sought is for use in such proceedings
29 in Turkey and hence the request comes well within those circumstances contemplated by Congress in
30 expanding the Federal Courts' authority to act in such matters. *In Re Letter of Request from the Crown*
31 *Prosecution Service of the United Kingdom*, 870 F.2d 686, 689-91 (D.C. Cir. 1989); *In Re Letters*
32 *Rogatory from the Toyko District, Toyko, Japan*, 539 F.2d 1216, 1219 (9th Cir. 1976). Therefore, the
33 United States asks this Court to honor the request for assistance.

1 The reception of letters rogatory and the appointment of a Commissioner to execute them are
2 matters customarily handled ex parte, and persons with objections to the request raise those objections
3 by moving to quash any subpoenas issued by the Commissioner. *Tokyo Dist.*, 539 F.2d at 1220.
4 However, the United States has served Facebook with this application and supporting papers, and
5 Facebook does not object to the relief requested therein.

6 WHEREFORE, the United States respectfully requests this Court to issue the accompanying
7 proposed order.

8 DATED: May 17, 2016

Respectfully submitted,

9 BRIAN J. STRETCH
10 United States Attorney

11 By: /s/ Wendy M. Garbers
12 WENDY M. GARBERS
13 Assistant United States Attorney